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Public Projects

“Best Value”

Procurement

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General Rule

- State Contracts Require Public Bidding
 - Some exceptions apply
- Municipal Contracts Require Public Bidding
 - \$100,000 threshold
 - Some exceptions apply



Policy Behind General Rule

- Discourage Favoritism
- Deter Fraud
- Encourage Competition





Existing Rule on Award of Contracts

Lowest Responsive and Responsible Bidder



Rejecting Bids and Bidders

- Use of Objective Criteria
- Use of Qualifications in Bid Solicitations
- Dangers of Use of Subjective Criteria



Bid Protests

Race to the Courthouse

- Relief Available After Contract Awarded
- Relief Available Before Contract Awarded



New Rule

Best Value Method of Procurement Permits
Use of Subjective Criteria



Policy Behind New Rule

- Recognition that Quality Based Selection for Contractors Can Decrease Project Costs
 - Minimize the potential of contractor in over its head
 - Minimize associated costs of excessive RFI's and Change Orders
 - Minimize Claims



Statutory Definition

For purposes of construction, building, alteration, improvement, or repair services, “best value” describes the result determined by a procurement method that considers price and performance criteria, which may include, but are not limited to:

1. the quality of the vendor’s or contractor’s performance on previous projects;
2. the timeliness of the vendor’s or contractor’s performance on previous projects;
3. the level of customer satisfaction with the vendor’s or contractor’s performance on previous projects;



4. the vendor's or contractor's record of performing previous project on budget and ability to minimize cost overruns;
5. the vendor's or contractor's ability to minimize change orders;
6. the vendor's or contractor's ability to prepare appropriate project plans;
7. the vendor's or contractor's technical capabilities;
8. the individual qualifications of the contractor's key personnel; or
9. the vendor's or contractor's ability to assess and minimize risks.



Contents of Bid Solicitation

- Criteria Must Be Listed
- Weight of Each Criteria Must be Given
- Interview with Bidder Must Be Disclosed





Manner of Evaluation of Stated Criteria

All Criteria must be evaluated in an open and competitive manner.



SAMPLE

The selection of the bidders for the project will be based on the criteria listed in the table set forth below. The weight to be accorded each of the listed criteria is indicated as a percentage. An interview will be conducted by *[list participants required]* where each bidder will be given *[time allotted]* to explain how they address each criteria.





<u>CRITERIA EVALUATED</u>	<u>WEIGHT GIVEN</u>
Lowest overall price	40%
Quality of the contractor's performance on previous projects	20%
Timeliness of contractor's performance on previous projects	20%
Contractor's record of performing previous projects on budget and ability to minimize cost overruns and change orders	10%
Individual qualifications of the contractor's key personnel	10%

Additional Information in Bid Solicitation

- Requirements for Information on Stated Criteria

Examples:

- References from previous projects
- Resume or list of qualifications of key personnel



Phases of Implementation

- Phase One – First 2 years
 - State, Counties, Cities, Top 25% of School Districts
- Phase Two – Beginning 2009
 - Top 50% of School Districts added
- Phase Three – Beginning 2010
 - Townships, Other Political Subdivisions, All School Districts Added



Limits on Use

- One Project Annually or 20% of Projects, whichever is greater



- Applies only to first 3 years

Training Required

Any personnel administering procurement procedures for a user of best value procurement or any consultant retained by a local unit of government to prepare or evaluate solicitation documents must be trained, either by the department or through other training, in the request for proposals process for best value contracting for construction projects.



Statutes Amended

- Page 15 of the materials
- Text in Appendix



Changes on the Horizon?

- Critics are working on positions
- Potential for Amendments
- Potential for Repeal





THANK YOU!

